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No. 91-1198

IN THE

# Supreme Court of the United States

OCTOBER TERM, 1991

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CHESAPEAKE WESTERN RAILWAY, *et al.*,
*Petitioners,*

v.

TAX COMMISSIONER, VIRGINIA DEPARTMENT OF TAXATION, *et al.*,
*Respondents.*

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**On Petition for a Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit**

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## BRIEF AMICUS CURIAE OF THE ASSOCIATION OF AMERICAN RAILROADS IN SUPPORT OF PETITIONERS

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## QUESTION PRESENTED

Whether the federal courts have jurisdiction, under the federal statute that prohibits state tax discrimination against railroads, to determine whether a state's property tax valuation methodology results in discriminatory overvaluation of railroad property.

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## BRIEF AMICUS CURIAE OF THE ASSOCIATION OF AMERICAN RAILROADS IN SUPPORT OF PETITIONERS [1]

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### INTEREST OF AMICUS CURIAE

The Association of American Railroads ("AAR") is a nonprofit trade association representing the Nation's major railroads. Its members account for approximately 82 percent of the line haulage, employ 93 percent of the workers, and produce approximately 94 percent of the freight revenues of all railroads in the United States. AAR represents its member railroads before courts, agencies, and the Congress in matters of common concern.

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[1] Petitioners and respondents have consented to the filing of the brief. The letters signifying consent have been filed with the Clerk.

As the trade association for the Nation's railroads, AAR has a vital interest in preserving the integrity of Section 306 of the Railroad Revitalization and Regulatory Reform Act of 1976, recodified at 49 U.S.C. § 11503 ("Section 11503").[2] Section 11503 was enacted by Congress to prohibit and provide a federal remedy against discriminatory state taxation of railroads, a widespread and long-standing practice that Congress found to seriously weaken the Nation's railroads and to "unreasonably burden and discriminate against interstate commerce." 49 U.S.C. § 11503(b). AAR, on behalf of the railroad industry, participated in the legislative process that culminated in the passage of Section 11503 and has an important stake in ensuring that the reforms enacted by Congress in that remedial legislation are not lost to the industry or attenuated through improper judicial construction of Section 11503's provisions.

## INTRODUCTION AND SUMMARY OF ARGUMENT

In *Burlington N. R.R. v. Oklahoma Tax Comm'n*, 481 U.S. 454 (1987) ("*Oklahoma Tax Comm'n*"), this Court held that state tax discrimination resulting from overvaluation of railroad property by state tax officials is included in the broad prohibitions of Section 11503. The Court also held in *Oklahoma Tax Comm'n* that U.S. district courts, in exercising their remedial authority under Section 11503, are necessarily empowered to determine the "true market value" of both railroad and non-railroad property in order to determine if discrimination resulting from overvaluation of railroad property exists. *Id.* at 461. Because the railroad overvaluation challenge in

[2] There are some differences in language between Section 306 as originally enacted [§ 306 of Pub. L. No. 94-210, 90 Stat. 31, 54 (1976)] and as subsequently recodified at 49 U.S.C. § 11503. The recodification, however, was not intended to effect any substantive change. *Burlington N. R.R. v. Oklahoma Tax Comm'n*, 481 U.S. 454, 457 n.1 (1987). Further references will be to the statute as recodified.

*Oklahoma Tax Comm'n* was directed at the unfair application of the state's valuation methodology rather than at the state's choice of methodology itself, however, this Court did not address, and expressed no view on, an issue not there presented: "whether a railroad may, in an action under § 11503, challenge in the district court the appropriateness of the accounting methods by which the State determined the railroad's value or is instead restricted to challenging the factual determinations to which the State's preferred accounting methods were applied." *Id.* at 463 n.5.

The question reserved by this Court in *Oklahoma Tax Comm'n* is directly presented by the Fourth Circuit's decision in the case at bar. That decision, if allowed to stand, will render the discrimination prohibitions of Section 11503 effectively meaningless. In the instant case, railroads operating in Virginia sought to challenge, as violative of the discrimination prohibitions of Section 11503, the methodology employed by the State of Virginia for valuing railroad property (the "inventory and summation" method).[3] The railroads contended that Virginia's valuation methodology, through arbitrary parcelization of railroad land and inconsistent application of "highest-and-best-use" valuation principles, sytematically

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[3] Under Virginia's "inventory and summation" method, railroad land (including rights-of-way) is artificially divided into parcels and its "highest-and-best-use" is assumed to be a non-rail use equal to that of adjoining or nearby land ("across-the-fence" value). Railroad property other than land (including roadway, track and operating improvements located on railroad rights-of-way) are separately valued and attributed a rail-use value equal to original cost less depreciation. Pet. at 7-8.

The methodology employed by Virginia is different from that of any other state. Most states that impose a property tax on railroads use one or more unitary valuation methodologies. Under a unitary approach, the railroad is valued as a whole, based on capitalized income and/or other valuation factors, and a portion of that value is allocated to the states and localities in which the railroad operates. *See Oklahoma Tax Comm'n*, 481 U.S. at 459; Pet. App. at 2a-3a.

overvalued railroad property in relation to non-rail property and resulted in assessment ratio discrimination prohibited by Section 11503.

The railroads' discrimination claim was rejected by the district court on summary judgment.[4] On appeal, the Fourth Circuit affirmed the dismissal of the railroads' challenge. In passing upon the question reserved in *Oklahoma Tax Comm'n*, the Court of Appeals held that "[w]e conclude that [§ 11503] does not provide a basis for railroads to challenge a state's preferred methodology for ascertaining the true market value of railroad property." Pet. App. at 10a. As grounds for its ruling, the court below found the language of Section 11503 to be "ambiguous" and concluded that the "admittedly rather thin" legislative history suggested that "Congress did not intend for courts to displace the state's policy choice" with respect to valuation methodology (Pet. App. at 6a). The court below also cited as grounds for its ruling Congress' "general proscription on federal interference in state taxation decisions (*Id.* at 10a)," and the "difficult task" that the courts would have to perform if they were required to determine "which assessment methodology produces true market value of railroad property" pursuant to a Section 11503 discriminatory overvaluation challenge (*Id.* at 10a).

The decision of the Fourth Circuit shielding a state's choice of methodology for valuation of railroad property from challenge under Section 11503 is wrongly decided and is inherently destructive of the statutory scheme. The decision ignores the clear language and

[4] The district court noted that Section 11503 "does not impose a particular method of taxation on the State (Pet. App. at 13a)" and found that expert testimony by the Virginia State tax official responsible for valuing railroad property in Virginia describing how the "inventory and summation" method resulted in significant overvaluation of railroad property in the State was insufficient to create a factual issue. Pet. App. at 14a.

purpose of Section 11503, which is directed at the elimination and prohibition of all forms of state tax discrimination against railroads by whatever means inflicted. The decision also deprives the statutory scheme of any practical effect by providing a ready means by which state tax authorities may wholly circumvent the statute's prohibitions against discriminatory taxation of railroads through the simple expedient of devising valuation methodologies that systematically discriminate against railroad property. Moreover, the decision conflicts with the reasoning employed by this Court in *Oklahoma Tax Comm'n* in upholding discriminatory overvaluation challenges under Section 11503. The decision below is also inconsistent with decisions in other circuits declining to apply, and questioning the efficacy of, a jurisdictional bar to Section 11503 challenges predicated on whether a state's choice of "methodology" is ostensibly at issue .

Because the decision below is inherently destructive of the statutory scheme, will encourage state tax officials in efforts to evade Section 11503's prohibitions, and will compound existing uncertainty and lack of uniformity in the application and enforcement of Section 11503, this Court should now resolve the issue reserved in *Oklahoma Tax Comm'n* as urged by petitioners. The AAR therefore strongly supports the petition for a writ of certiorari.

## ARGUMENT

### I. THE JURISDICTIONAL BAR TO VALUATION METHODOLOGY CHALLENGES ESTABLISHED BY THE COURT BELOW IS CONTRARY TO THE LANGUAGE AND PURPOSE OF SECTION 11503 AND PROVIDES A READY MEANS BY WHICH STATE TAX AUTHORITIES MAY NEGATE THE FEDERAL REMEDIES AGAINST STATE TAX DISCRIMINATION PROVIDED BY SECTION 11503

#### A. The Language and Purpose of Section 11503

Congress has long been aware that state property taxation of railroads has operated, over the course of many years, in a discriminatory fashion against the railroad industry. S. Rep. No. 91-630, 91st Cong., 1st Sess. 1-8 (1969); H. Rep. No. 94-725, 94th Cong., 1st Sess. 76-78 (1975). Congress has also long been aware that the effect of discriminatory state taxation upon the railroad industry has been massive and persistent,[5] and that such tax discrimination operated to seriously weaken the national transportation system (as well as unfairly burden shippers and consumers with excessive transportation costs). See, e.g. S. Rep. No. 91-630, pp. 3-8; H. Rep. No. 94-725, p. 78.

In 1976, after 15 years of congressional investigation and intermittent legislative action, Congress passed Section 306 of the Railroad Revitalization and Regulatory Reform Act (4-R Act), codified at 49 U.S.C. 11503, with the purpose of ending the problem of discriminatory

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[5] After extensive investigation, Congress concluded that "railroads are over-taxed by at least $50 million each year." H. Rep. No. 94-725, p. 78 (1975); *Oklahoma Tax Comm'n*, 481 U.S. at 457. Congress was also aware that railroads "are easy prey for State and local tax assessors" because they are "nonvoting, often non-resident, targets for local taxation, and cannot easily remove their rights of way and terminals." S. Rep. No. 91-630, p. 3; *Western Air Lines v. Board of Equalization*, 480 U.S. 123, 131 (1987).

state taxation of railroads.[6] The solution Congress embodied in Section 11503 was "a prohibition on discriminatory state taxation of railroad property." *Oklahoma Tax Comm'n*, 481 U.S. at 457. Section 11503(b) "in broad terms" (*id.* at 457) provides that a state engages in unlawful tax discrimination when it acts to:

> (1) assess rail transportation property at a value that has a higher ratio to the true market value of the rail transportation property than the ratio that the assessed value of other commercial and industrial property in the same assessment jurisdiction has to the true market value of the other commercial and industrial property.

Section 11503 also prohibits state taxation of railroad property at a rate higher than that generally applicable to other commercial and industrial property in the same assessment jurisdiction (Section 11503(b)(3)) and broadly prohibits a state from imposing any other tax that discriminates against a rail carrier (Section 11503(b)(4)).

To afford an effective federal remedy, Section 11503(c) provides that federal district courts may grant injunctive relief to prevent violations of Section 11503, notwithstanding the provisions of the Tax Anti-Injunction Act, 28 U.S.C. § 1341.[7] Section 11503(c) specifically provides that in an action under Section 11503, "[t]he burden of proof in determining assessed value and true market value is governed by State law."

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[6] The 4-R Act also contained broader reforms the purpose of which, as stated in the Congressional declaration of policy, was "to provide the means to rehabilitate and maintain the physical facilities, improve the operations and structure, and restore the financial stability of the railway system of the United States." § 101(a).

[7] 28 U.S.C. § 1341 generally deprives federal district courts of jurisdiction to enjoin state taxation unless there is a showing that a "plain, speedy, and efficient remedy" is not available in the state courts.

### B. The Jurisdictional Bar to Methodological Challenges Established by the Court Below Is Contrary to the Language and Purpose of Section 11503 and Conflicts with this Court's Reasoning in *Oklahoma Tax Comm'n*

In its decision below, the Fourth Circuit found that the language of Section 11503 is "ambiguous" on the question "whether a railroad may challenge . . . the particular accounting method a state has determined to best estimate true market value." Pet. App. at 6a. The court below, wholly predicated on extra-statutory considerations, then went on to find that discriminatory overvaluation challenges predicated on state choice of valuation methodology do not fall within the remedial provisions of Section 11503. The Fourth Circuit's decision is contrary to the clear and unambiguous language and purpose of Section 11503, does violence to the remedial scheme established by Congress in Section 11503 and must be reversed by this Court.

The court below made no effort to demonstrate the specific basis for its conclusory assertion that the statutory terms are "ambiguous" in any respect on the issue presented. Indeed, the court below appears to predicate its conclusory assertion solely on the basis that this Court *reserved* the issue, as not presented, in *Oklahoma Tax Comm'n*. Pet. App. at 6a. In *Oklahoma Tax Comm'n*, however, this Court did not find the provisions of Section 11503 to be ambiguous in *any* respect but instead found the statutory language and purpose "clear." *Id.* at 461. The Court simply "express[ed] no view" on a question not then before it. *Id.* at 463 n.5. This Court's decision in *Oklahoma Tax Comm'n* thus cannot be employed by the court below—as it improperly did—to "bootstrap" itself over the insurmountable hurdle before it—the language of the statute the court is charged with construing.

Contrary to the Fourth Circuit's decision, the language of Section 11503 is clear and unambiguous and embraces

within its scope state tax discrimination against railroads effected either through unfair application of the state's valuation methodology (as specifically held by this Court in *Oklahoma Tax Comm'n*) or through direct choice of a discriminatory valuation methodology itself. Indeed, neither the language nor the purpose of the statute makes a distinction in this regard.

Pursuant to Section 11503(b)(1), a state is specifically forbidden to "assess rail transportation property at a value that has a higher ratio to true market value . . . than the ratio that the assessed value of other commercial and industrial property in the same assessment jurisdiction has to the true market value of the other commercial and industrial property." Under this provision, Congress established an objective, ratio-based test for determining whether state tax discrimination exists and specifically charged the federal judiciary with determining assessed value and true market value for both railroad and non-railroad property to evaluate a claim of state tax discrimination. Section 11503(c); *cf. Oklahoma Tax Comm'n*, 481 U.S. at 462 (Section 11503(c) generally provides that assessed value and true market value are proper subjects for judicial inquiry and are to be proved under burdens allocated by state law). The language used by Congress in Section 11503(c) is broadly inclusive of any form of state tax discrimination against railroad property resulting from disparate assessment value/true value ratios between rail and non-rail property; is specifically intended to effect a blanket statutory "prohibition on discriminatory state taxation of railroad property" (*Oklahoma Tax Comm'n*, 481 U.S. at 457); and makes no exception for state tax discrimination effected through methodological manipulation of railroad property values as the Fourth Circuit would have it.[8]

[8] The only specific limitation established by Congress is set forth in Section 11503(c). That provision provides that "[r]elief may be granted under this subsection only if the ratio of assessed value

Indeed, this Court's decision in *Oklahoma Tax Comm'n*, although not passing on the issue decided by the court below, is highly instructive as to the congressional objective and broad remedial purpose expressed in the specific language employed by Congress in Section 11503. In *Oklahoma Tax Comm'n*, this Court specifically rejected a contention by state tax authorities—predicated essentially not on the language of Section 11503 but on their view of the legislative history of that Section—that "whatever the State determines the value of the railroad to be, the resulting assessment ratio is not subject to further judicial scrutiny in the federal courts." *Id.* at 461-462.[9] As found by this Court in rejecting such a contention as contrary to the clear congressional purpose set forth in the language of Section 11503:

> The parties have canvassed at length the 15-year legislative history of the Act, and of the protection against discriminatory state taxation which became § 11503. We find the results of that investigation inconclusive and irrelevant. Legislative history can be a legitimate guide to a statutory purpose obscured by ambiguity, but "[i]n the absence of a 'clearly ex-

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to true market value of rail transportation property exceeds by at least 5 percent, the ratio of assessed value to true market value of other commercial and industrial property in the same assessment jurisdiction." This provision is a prohibition on the litigation of *de minimis* disparate impact claims in the federal courts. *Oklahoma Tax Comm'n*, 481 U.S. at 464.

[9] The legislative history relating to an early version of Section 11503 indicates at most that Congress did not intend to require states to adopt a single uniform valuation methodology that would be standard. S. Rep. No. 1483, 90th Cong., 2d Sess. App. B (1968); see Pet. App. at 6a-7a. The legislative history makes clear, however, that Congress viewed true market value as an objective standard "to which values that have already been determined must be compared." *Id.* The language of Section 11503 reflects this legislative intention by employing an objective ratio test for state tax discrimination under which federal courts are empowered to inquire into both assessed value and true market value determinations by state authorities to determine if discrimination exists.

> pressed legislative intention to the contrary,' the language of the statute itself 'must ordinarily be regarded as conclusive.'" [citations omitted] . . . .
>
> In the present case, the language of § 11503 plainly declares the congressional purpose. . . . It is clear from this language that in order to compare the actual assessment ratios [of railroad and nonrailroad property], it is necessary [for a federal court] to determine what the "true market values" are.

*Id.* at 461. This Court in *Oklahoma Tax Comm'n* thus found that Congress expressly meant what it said in the broad remedial language employed in Section 11503. That language clearly embraces, and provides a federal remedy against, all forms of state tax discrimination against railroad property whether inflicted through discriminatory methods of determining "true market value" of railroad property or other discriminatory practices. As this Court further held in *Oklahoma Tax Comm'n*, the addition of limiting language—such as that imposed by the Fourth Circuit's decision which would preclude federal courts from making an independent determination of the true market value of railroad property where issues of "methodology" are ostensibly presented—"requires amendment rather than construction of the statute" and must be rejected. *Id.* at 463.[10]

In light of the clear statutory language and congressional purpose of Section 11503—which is intended to prohibit all forms of state tax discrimination against railroad property—it is the responsibility of the federal judi-

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[10] Moreover, in *Oklahoma Tax Comm'n* this Court also rejected the basis for the Fourth Circuit's reliance on principles of "comity" in construing the language and purpose of Secion 11503. As noted in *Oklahoma Tax Comm'n* with respect to Congress' express adoption in Section 11503(c) of an exemption from the provisions of the Tax Anti-Injunction Act, 28 U.S.C. § 1341, "these are policy considerations which may have weighed heavily with legislators who considered the Act and its predecessors. It should go without saying that we are not free to reconsider them now." *Id.* at 464.

ciary to implement the congressional purpose as set forth in the statutory requirements of Section 11503. It is emphatically not the role of the federal judiciary to avoid that task—as the Fourth Circuit did—because it may be difficult or may countermand state policy in a particular case.[11] Indeed, as explained below, for the remedial scheme established by Congress in Section 11503 to remain effective it is *essential* that methodological loopholes not be provided through which state tax authorities may channel ongoing efforts to impose discriminatory taxes on the railroad industry free from federal remedies provided under Section 11503.

### C. The Jurisdictional Bar to Methodological Challenges Established by the Court Below Provides a Ready Means by which State Authorities May Negate the Federal Remedies Provided by Section 11503

Not only is the jurisdictional bar to challenges to discriminatory state valuation methodologies imposed by the court below contrary to the language and purpose of Section 11503, it also provides an easy means by which state tax authorities may wholly negate the federal remedies against state tax discrimination provided by Section 11503.

As is apparent, state tax authorities, by adopting valuation methodologies for railroad property that systematically value railroad property in excess of true market value, may achieve discriminatory results *identical* in scope to that obtainable through other forms of tax discrimination proscribed by Section 11503 (e.g., application of a higher tax rate to railroad property or sys-

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[11] As noted in the petition for certiorari, a market value determination under Section 11503 is not appreciably different from valuation determinations routinely made by courts in condemnation, estate tax, shareholder assessment and other proceedings where decisions are based on expert testimony. *See* Pet. at 19.

tematic undervaluation of non-railroad property).[12] Thus, to impose a jurisdictional bar to Section 11503 discriminatory overvaluation challenges where the discrimination is effected by the state through "methodological" means—as the court below did—creates a gaping loophole in the statutory scheme.

In light of the vulnerability of the railroad industry to discriminatory state and local taxation and the long-standing and ongoing efforts of state authorities to impose discriminatory taxes on the industry,[13] that loophole can and will be fully exploited by the states—through the simple means of devising valuation methodologies that systematically overvalue railroad property—to wholly defeat the prohibitions and federal remedies provided by Section 11503. Indeed, in its decision below, the Fourth Circuit did not even attempt to address this necessary and perverse result of its decision imposing a jurisdictional bar to challenges to discriminatory state valuation methodologies.

As Congress noted in the course of enacting Section 11503, "interstate carriers, especially railroads, are easy prey" for state discriminatory tax practices. S. Rep. No. 92-1085, 92d Cong., 2d Sess. 4 (1972); *see also* S. Rep. No. 91-630, at 3.

> They are non-voting, often non-resident targets for local taxation, and cannot remove their rights-of-way

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[12] As this Court made clear in *Oklahoma Tax Comm'n*, there is no intent requirement in Section 11503. "Subsection [11503(b)] speaks only in terms of 'acts' which 'unreasonably burden and discriminate against interstate commerce'; nowhere does it refer to the intent of the actor." *Id.* at 463. It is thus irrelevant to the statutory prohibitions under Section 11503 whether discriminatory valuation methodologies are established by states through express design or through "good faith" valuation efforts.

[13] In their petition, petitioners provide numerous examples of continuing state efforts to impose discriminatory taxes against railroads. See Pet. at 4 n.2, 6 n.4. As the petition further notes, only Section 11503 effectively bars the way to such state efforts. *Id.*

> and terminals even if the burden of tax discrimination becomes heavy. Their statutory obligation as regulated common carriers further roots them to their location since they are obligated to provide service to the locality. Railroads are particularly subject to discriminatory taxation since they have the largest investment in fixed plant. . . .

S. Rep. No. 92-1085, at 4.

Indeed, for the year 1986 (the last year for which such figures are publicly available), the assessed value of railroad property subject to state ad valorem taxes in all state jurisdictions totalled in excess of $6,630,000,000. *1987 Census of Governments*, U.S. Department of Commerce, Bureau of the Census, at Volume 2, Table 2, p.5. This figure is significantly less than the actual total for two reasons. First, the figure does not include locally assessed property. In addition, 19 states did not report the assessed value of railroad property subject to property tax in their jurisdiction. *Id.*

Moreover, the potential revenues available to states through ad valorem property taxes on railroads are enormous. In 1990, based on aggregate figures set forth in Annual Reports (R-1) filed with the Interstate Commerce Commission, total ad valorem taxes assessed in 1990 for all Class I railroads in all state jurisdictions totalled $281,436,000. This figure does not include taxes assessed on Class II and Class III railroads, which constitute approximately 24 percent of the Nation's railroad mileage.[14] Thus, the incentive for state tax discrimination against the railroad industry is as great today as it was in 1976 when Congress first enacted Section 11503.

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[14] Under carrier classifications adopted by the Interstate Commerce Commission, a Class I railroad is defined as a carrier with annual operating revenues of $94.4 million or more. A Class II carrier has annual operating revenue of less than $94.4 million but more than $18.9 million. A Class III carrier has annual operating revenues of $18.9 million or less. (The annual revenue figures are adjusted for inflation.) 49 C.F.R. § 1.01(A)(1-1)(a)-(d).

Congress specifically enacted Section 11503 because it found that the states, if left to their own devices, would not take effective action against tax discrimination against railroad property. See, e.g., S. Rep. No. 91-630, pp. 7-8; S. Rep. No. 92-1085, p. 4. The decision of the court below, by imposing a jurisdictional bar to Section 11503 challenges to state tax discrimination effected through methodological means, brings the legislative process back to square one by providing the states a ready means of imposing discriminatory taxes on railroads while totally avoiding federal injunction remedies under Section 11503. Such result, which effectively defeats the entire remedial scheme established by Congress in Section 11503, should not be countenanced by this Court.

* * *

As set forth in the petition for writ of certiorari, the decision of the court below is also inconsistent with decisions in other circuits declining to apply, and questioning the efficacy of, a jurisdictional bar to Section 11503 challenges predicated on whether a state's "choice of methodology" is ostensibly at issue. Pet. at 19-25; *see Burlington N.R.R. Co. v. James*, 911 F.2d 1297, 1301 (8th Cir. 1990); *ACF Indus. v. California State Bd. of Equalization*, No. C-89-3449, slip op. at 25 n.3, 27 n.7 (N.D. Cal. Sept. 13, 1991); *see also Atchison T.&S.F. Ry. v. Board of Equalization*, 795 F.2d 1442 (9th Cir. 1986), *abstention order vacated*, 828 F.2d 9 (9th Cir. 1987).

As the petition further notes, other federal courts have seized upon the question reserved in *Oklahoma Tax Comm'n* as permitting the imposition of a "choice of methodology" jurisdictional bar to Section 11503 relief, resulting in a growing disarray in the lower courts on this issue. Pet. at 21-25; *see*, e.g., *Union Pac. R.R. v. State Tax Comm'n*, 716 F. Supp. 543 (D. Utah 1988); *Burlington N. R.R. v. Department of Revenue of the State of Washington*, Nos. C89-518 (T) WD & C90-5417

(T) WD (W.D. Wash. Nov. 27, 1991). Prompt review of the decision below by this Court is therefore necessary not only to preserve the integrity of the remedial scheme enacted by Congress in Section 11503 and to forestall state efforts to circumvent the statutory prohibitions against discriminatory taxation of railroads, but to ensure the uniform and proper administration of Section 11503 by the federal judiciary.

## CONCLUSION

For the foregoing reasons, the Court should grant the petition for certiorari.

Respectfully submitted,

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